



PHILIP MORRIS

U.S.A.

120 PARK AVENUE, NEW YORK, N.Y. 10017-5592 TELEPHONE (212) 880-5000

July 23, 1998

Ms. Susan Charney-Moore
Susan Charney and Associates
402 Eighth Avenue South
Suite 400
Nashville, Tennessee 37203

Dear Ms. Charney-Moore:

This letter, when countersigned below, constitutes the agreement (the "Agreement") between Susan Charney and Associates, a Tennessee corporation with executive offices located at 402 Eighth Avenue South, Suite 400, Nashville, Tennessee 37203 ("SCA"), and Philip Morris Incorporated, a Virginia corporation with executive offices located at 120 Park Avenue, New York, New York 10017 ("Philip Morris"), pursuant to which SCA will render services, which will include the following, for Philip Morris and its **MARLBORO** brand of cigarettes under the terms and conditions stated.

1. Services.

SCA will:

(a) provide the personal services of Ms. Susan Charney, which are the essence of the Agreement;

(b) research and identify entertainment which will receive the best commercial acceptance at regional and national country dance finals held in connection with the **MARLBORO Country Nights Dance Program** (the "Program");

(c) unless otherwise directed by Philip Morris, enter into performance agreements (the "Performance Agreements") with musical artists (the "Artists") to perform at concerts to be held following the Program's five regional and one national dance competitions (the "Concerts") in accordance with the schedule attached hereto as Exhibit A or as otherwise designated by Philip Morris. SCA must obtain Philip Morris' approval prior to entering into any Performance Agreement. Philip Morris has the right to participate in negotiations for Performance Agreements, and may elect to execute Performance Agreements. SCA will immediately provide copies of each Performance Agreement to Philip

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Morris upon execution. All Performance Agreements executed by SCA must be immediately assignable to Philip Morris upon Philip Morris' request;

(d) use best efforts to ensure that the Performance Agreements contain a provision substantially similar to Paragraph 6 of the Agreement and the following terms:

- (1) for a period of eight weeks prior to and two weeks subsequent to a Concert in which an Artist will perform pursuant to a Performance Agreement the Artist will not perform, advertise or permit to be advertised, a performance by such Artist within one hundred miles of the site of the Concert without the prior, written approval of Philip Morris;
- (2) the Artist will not, without the prior, written approval of Philip Morris, promote or advertise products other than Philip Morris products at or in connection with a Concert pursuant to a Performance Agreement;
- (3) Philip Morris will have the right to use brand and event logos created by Philip Morris and the phrase "**Marlboro Music/Marlboro Country Nights Dance Program**" in conjunction with the name, likeness and logo of the Artist in connection with each Concert in which the Artist agrees to appear. Such use will not constitute an endorsement by Philip Morris or the Artist;
- (4) the Artist may not record, broadcast or otherwise reproduce its performance at or in connection with a Concert without the advance, written permission of Philip Morris;
- (5) the Artist will agree to appear at any media interview, press conference or other promotional activity designated by Philip Morris, when reasonably feasible. The Artist will be available for and properly participate, either in person or by telephone, in media training with a media specialist designated by Philip Morris prior to participating in any media interviews, press conferences or other promotional activities or making any public appearances in connection with a Concert;

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- (6) the Artist will be available for and properly participate in a hospitality session at the hospitality area designated by Philip Morris prior to the Concert and meet with persons designated by Philip Morris for no less than fifteen minutes just prior to or immediately after the Artist's performance;
 - (7) with the exception of merchandise regularly sold by the Artist at concession stands at the site of the Concert, the Artist may not, without the prior, written approval of Philip Morris, promote or advertise any person, company or other entity other than Philip Morris, or any product other than a product manufactured by Philip Morris, at or in connection with the Concerts;
 - (8) the Artist will deliver the Artist's name and telephone number, schedule and touring itinerary for the time period during which the Concerts will occur to Philip Morris or third parties designated by Philip Morris no later than six weeks prior to the Artist's Concert date to ensure that advance interviews may be arranged;
 - (9) the Artist will deliver the Artist's head shots and biography to Philip Morris or third parties designated by Philip Morris no later than thirty days prior to the Artist's Concert date. The Artist will ensure that Philip Morris has all rights to use the head shots and biography in promotional materials for the Program; and
 - (10) the Artist will be available for interviews and other appearances during the two days immediately preceding the Artist's Concert date;
- (e) assume complete responsibility for ensuring that all music licensing rights, i.e., ASCAP and BMI, are secured with respect to the Concerts;
- (f) if an Artist cancels or withdraws from a Concert, use best efforts to select and retain a substitute Artist for the Concert and use best efforts to obtain a refund to Philip Morris of monies expended for the original Artist;

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(g) attend meetings at Philip Morris headquarters in New York, New York and provide services at Philip Morris headquarters in New York, New York at such times as may be reasonably requested by Philip Morris and for periods not to exceed five working days per trip; and

(h) cooperate and work with Philip Morris and third parties designated by Philip Morris on all matters relating to the organization and execution of the Program, including cooperating with local Philip Morris personnel.

2. Payment.

In full and complete consideration of the services rendered throughout the term of the Agreement, Philip Morris will pay SCA \$12,500 (the "Fee"). Philip Morris will pay SCA \$6,250 within thirty days after execution of the Agreement and submission of an invoice, and the balance of \$6,250 within thirty days after submission of an invoice on or about December 5, 1998.

3. Expenses.

The Fee is inclusive of all expenses incurred by SCA, with the sole exception of the following, which will be paid by Philip Morris within thirty days after submission of itemized invoices detailing such expenses incurred:

(a) payments to Artists pursuant to Performance Agreements approved by Philip Morris in accordance with the schedule attached hereto as Exhibit B. Total payments to Artists throughout the term of the Agreement will not exceed \$125,000 without the advance, written approval of Philip Morris; and

(b) reimbursement, at cost, for reasonable, competitively priced expenses incurred in providing services pursuant to the Agreement. All expenses in excess of \$25 must be submitted with receipts. All expenses in excess of \$250 must be approved in advance by Philip Morris. Total expenses throughout the term of the Agreement may not exceed \$20,000 without the advance, written approval of Philip Morris.

4. Term and Termination.

(a) The term of the Agreement will commence upon its execution, and will continue through the later of December 31, 1998 or SCA's complete performance of its obligations under the Agreement to the reasonable satisfaction of Philip Morris. Philip

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Morris may terminate the Agreement, with or without cause, upon thirty days' advance, written notice to SCA. If Philip Morris terminates the Agreement without cause, Philip Morris will have no liability to SCA after the date of termination specified in Philip Morris' notice of termination, with the exception of fees earned for services satisfactorily performed, and documented expenses properly incurred, prior to the date of termination specified in Philip Morris' notice of termination. SCA will provide Philip Morris with a final accounting of outstanding obligations incurred prior to the date of termination specified in Philip Morris' notice of termination within thirty days after SCA's receipt of such written notice of termination. The payments will be made within thirty days after the date of termination specified in Philip Morris' notice of termination. If at the date of termination specified in Philip Morris' notice of termination, SCA has been paid amounts in excess of the pro rata portion of fees earned for services satisfactorily performed at the date of termination specified in Philip Morris' notice of termination or SCA has been advanced funds for expenses which SCA has not incurred, SCA will promptly refund to Philip Morris all excess amounts. SCA will immediately deliver documentation for all such excess amounts paid or advanced.

(b) If any federal, state, municipal or local law, regulation, ordinance, order, ruling, judgement, consent decree or other governmental action becomes effective that makes the promotion of tobacco products as contemplated by the Agreement unlawful, impracticable or, in the judgment of Philip Morris, materially reduces the value of the Agreement to Philip Morris, the Agreement may be terminated by Philip Morris as of the effective date of the law, regulation, ordinance, order, ruling, judgment, consent decree or action. If the Agreement is so terminated, SCA will refund to Philip Morris all amounts paid to SCA by Philip Morris in connection with the Agreement. SCA may deduct from the refund all documented nonrecoverable costs properly incurred by SCA on behalf of Philip Morris in connection with the Agreement. SCA will immediately deliver documentation for all such costs deducted.

5. Records.

SCA, its employees and agents will maintain detailed and accurate books and records of account with respect to services performed pursuant to the Agreement. Philip Morris or its agents have the right, at Philip Morris' expense, to inspect, review and copy SCA's books and records from time to time, at reasonable times and places throughout the term of the Agreement and for the six months thereafter in connection with SCA's performance of services pursuant to the Agreement.

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6. Confidentiality.

SCA, its employees and agents will hold strictly confidential the existence and terms of the Agreement and all information and materials provided by Philip Morris to SCA or created or acquired by SCA in performing services pursuant to the Agreement, other than as contemplated by the terms of the Agreement. SCA will not use or disclose the existence or terms of the Agreement, the information or materials, or any other confidential information unless authorized to do so in writing by Philip Morris. SCA will cause the existence and terms of the Agreement, the information and materials and such other confidential information to be retained in complete confidence and prevent the improper use or disclosure thereof by its employees, agents, contractors and subcontractors, unless authorized to do so in writing by Philip Morris. Upon the termination or expiration of the Agreement, SCA will return promptly all materials to Philip Morris. SCA's obligation to maintain confidentiality will survive the termination or expiration of the Agreement.

7. Ownership.

All material prepared or developed by SCA in connection with the Agreement will become the property of Philip Morris and SCA hereby agrees to assign to Philip Morris any and all rights to copyright the material. Upon the acceptance by Philip Morris of any copyrightable material prepared by SCA, SCA at the request of Philip Morris will assign all of SCA's right, title and interest in and to the material to Philip Morris and execute an assignment in a form acceptable to Philip Morris. SCA will require that all employees, consultants and subcontractors performing creative services in connection with the Agreement agree to assign the materials they produce to Philip Morris and to acknowledge in writing that their copyrightable contributions are owned by Philip Morris.

8. Third Party Contacts.

If at any time SCA is contacted by a third party, including the media, other than as contemplated by the terms of the Agreement, concerning SCA's activities on behalf of Philip Morris, SCA will make no comment, immediately notify Philip Morris of the third party contact, and refer the third party to Philip Morris, Senior Vice President, Corporate Affairs.

9. Indemnity.

(a) SCA agrees to indemnify and hold harmless Philip Morris, its affiliates and each of their respective officers, employees, directors and agents from all claims,

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liabilities, costs or expenses, including reasonable attorneys' fees, that arise from, or may be attributable to any error, omission or fault of SCA. SCA's obligation to indemnify and hold harmless will survive the termination or expiration of the Agreement.

(b) Philip Morris agrees to indemnify and hold harmless SCA, its affiliates and each of their respective officers, employees, directors and agents from all claims, liabilities, costs or expenses, including reasonable attorneys' fees, that arise from, or may be attributable to any error, omission or fault of Philip Morris. Philip Morris' obligation to indemnify and hold harmless will survive the termination or expiration of the Agreement.

10. Insurance.

Upon execution of the Agreement, SCA will deliver to Philip Morris certificates of insurance evidencing coverage for: (i) comprehensive general liability, including advertisers' and contractual liability, with a combined single limit of no less than \$5,000,000 per occurrence for bodily injury, including personal injury, and property damage; (ii) comprehensive automobile liability for all owned, non-owned and hired vehicles, with bodily injury limits of no less than \$5,000,000 per person, \$5,000,000 per accident; and property damage limits of no less than \$5,000,000 per accident; and (iii) statutory workers' compensation coverage meeting all state and local requirements, including coverage for employers' liability with limits of no less than \$500,000. The certificates of insurance required by subparagraphs (i) and (ii) must name Philip Morris, its affiliates, employees and assigns as additional insureds and must state that Philip Morris will be provided at least thirty days' advance, written notice of a cancellation or modification of the insurance. The insurance required must be primary coverage without right of contribution from any other Philip Morris insurance. SCA will procure comparable certificates of insurance from its subcontractors naming Philip Morris, its affiliates, representatives, employees and assigns as additional insureds. Insurance maintained by Philip Morris is for the exclusive benefit of Philip Morris and will not insure to the benefit of SCA.

11. Independent Contractor.

SCA is an independent contractor and the Agreement will not be construed to create an association, partnership, joint venture or relation of principal and agent or employer and employee between Philip Morris and SCA or any of SCA's employees or agents within the meaning of any federal, state or local law. SCA will not enter into an agreement, oral or written, on behalf of Philip Morris or otherwise obligate Philip Morris without having previously obtained Philip Morris' written approval.

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12. The MARLBORO Name. SCA recognizes and acknowledges that the **MARLBORO Music** and **MARLBORO** names and the names of other Philip Morris brands, the designs, emblems, slogans and insignia of the respective brands, and the goodwill associated therewith, have great value and are the sole property of Philip Morris. SCA agrees that it has and will claim no right, title or interest in or to the same or the use thereof except the limited right to use pursuant to the Agreement.

13. Exclusivity.

During the term of the Agreement, and for the six months thereafter, SCA will not, without the prior, written consent of Philip Morris, engage in consulting, promotional, publicity or similar activities for any person, company or other entity whose business competes with any tobacco product of Philip Morris.

14. Miscellaneous.

(a) The Agreement and all matters collateral hereto will be governed by the laws of the State of New York applicable to agreements made and to be performed entirely within the State of New York.

(b) SCA will comply with all applicable laws, regulations, and ordinances relating to its performance of services pursuant to the Agreement. SCA acknowledges that it is cognizant of the provisions of 15 U.S.C. § 1331 et seq.

(c) The Agreement is the complete agreement between the parties and supersedes any prior oral or written agreement between the parties concerning the subject matter of the Agreement.

(d) If any provision of the Agreement is held invalid or unenforceable, the remaining provisions will remain in effect.

(e) The Agreement may not be modified, amended or assigned except in a writing signed by both parties. If an assignment occurs, the assignment will not relieve the assigning party of its liabilities or obligations hereunder. The Agreement is binding upon successors and assigns of the parties.

(f) A waiver by either party of any term or condition of the Agreement in one or more instances will not constitute a permanent waiver of the term or condition or any other term or condition of the Agreement or a general waiver.

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(g) Notices provided under the terms of the Agreement must be in writing and sent by certified mail, return receipt requested, to the respective parties at their addresses set forth above. Notices to Philip Morris will be sent, Attention: Director, Event Marketing.

If this letter accurately sets forth our understanding, please signify your acceptance and agreement by executing and returning both of the enclosed copies of this letter. We will forward one fully executed copy to you.

Very truly yours,

PHILIP MORRIS INCORPORATED

By: _____

Title: _____

ACCEPTED AND AGREED AS OF
THE DATE OF THIS LETTER:

SUSAN CHARNEY AND ASSOCIATES

By: _____

Title: _____

Taxpayer ID No.: _____

Filing Status: _____

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EXHIBIT A

<u>DATE</u>	<u>REGION</u>	<u>CLUB</u>	<u>MARKET</u>
Friday, October 23	Northern Region	TBD	TBD
Friday, October 30	Midwest Region	TBD	TBD
Friday, November 6	Southeast Region	TBD	TBD
Friday, November 13	Southwest Region	TBD	TBD
Friday, November 20	Western Region	TBD	TBD
Friday, December 4	National Finals	TBD	TBD

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EXHIBIT B
TALENT FEE PAYMENT SCHEDULE

50% DEPOSIT

<u>MARKET</u>	<u>EVENT DATE</u>	<u>AMOUNT</u>	<u>PAYMENT WITHIN 30 DAYS AFTER</u>
Northern Regional	October 23	\$7,500	Invoice submission with copy of fully executed performance agreement(s).
Midwest Regional	October 30	\$7,500	Invoice submission with copy of fully executed performance agreement(s).
Southeast Regional	November 6	\$7,500	Invoice submission with copy of fully executed performance agreement(s).
Southwest Regional	November 13	\$7,500	Invoice submission with copy of fully executed performance agreement(s).
West Coast Regional	November 20	\$7,500	Invoice submission with copy of fully executed performance agreement(s).
National Finals	December 4	\$25,000	Invoice submission with copy of fully executed performance agreement(s).

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50% BALANCE

<u>MARKET</u>	<u>EVENT DATE</u>	<u>AMOUNT</u>	<u>PAYMENT TO BE MADE ON OR BEFORE</u>
Northern Regional	October 23	\$7,500	October 14, 1998
Midwest Regional	October 30	\$7,500	October 21, 1998
Southeast Regional	November 6	\$7,500	October 28, 1998
Southwest Regional	November 13	\$7,500	November 4, 1998
West Coast Regional	November 20	\$7,500	November 11, 1998
National Finals	December 4	\$25,000	November 25, 1998

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